

**DEPAUL UNIVERSITY COLLEGE OF LAW**

**CRIMINAL PROCEDURE**

**Fall 2008**

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**OFFICE HOURS:**

Wed: 10 – 11:30; 1:30 - 3:00 and by appointment

**Course Materials:**

**Required:** Dressler & Thomas, CRIMINAL PROCEDURE: INVESTIGATING CRIME  
(3<sup>RD</sup> ed)

**Recommended:** Dressler & Michaels, UNDERSTANDING CRIMINAL PROCEDURE

**Course Objectives:**

This course will provide a broad overview of the criminal justice process, from the pre-arrest investigation of a crime through the trial. Particular emphasis will be placed on the interplay between the protection of individual rights versus the competing goals of efficiency and accuracy in the criminal justice system. Students will be expected to develop an understanding of the constitutional principles governing criminal procedure.

**Course Method:**

The class will be taught through a combination of the Socratic method, lecture, and problem solving.

**Attendance / Class Preparation:**

Students are expected to regularly attend class, prepare reading assignments in advance of class, and be prepared to discuss the assignments and problems during class.

Class participation is an important component of this class. The professor may raise a student's grade by one-half a letter grade based upon the student's performance in class if the student's grade is within a certain percentage of a higher grade. Your participation grade will be based not on quantity but on quality; participating means not just speaking, but also actively listening and contributing in useful ways to the class discussion.

The professor may lower a student's grade by one-half a letter grade or exclude any student from the final exam if a student has a combination of **three** or more unexcused absences or unexcused failures to be prepared for class.

**Evaluation:**

Grades will be based upon the final exam and upon class participation as described above.

The final exam will consist of multiple choice and short answer questions. A portion of the exam will be closed book. This portion will test your understanding of the black letter rules discussed in class. The examination questions will be based on the assigned written materials and matters discussed in class.

**Partial Outline of Course**

- 1. The Criminal Process**
  - A. Failures (9-13)**
    - Powell v. Alabama (13-19)*
    - Notes and Problems (19-21)*
    - The Dirty Little Secret: Judges Make Choices (21-23)*
    - Note 5 (25)*
  - B. The Norms of the Criminal Process (41-49)**
    - Notes 1A and 1B (48-49)*
    - Note 3 (49)*
  - C. Does the Process Protect the Innocent (50-51)**
    - Notes 1-2 (51-52)*
  
- 2. Fourth Amendment: An Overview**
  - A. The Text and its Mysteries (53-54)**
  - B. The Fourth Amendment and the States (54-56)**
  - C. The Reach of the Fourth Amendment (56-58)**
  - D. The Birth of the Exclusionary Rule**
    - Introductory Comment (58-59)*
    - Mapp v. Ohio (63-72)*
    - Notes 1-8 (72-74)*
  
- 3. Passing the Threshold of the Fourth Amendment**
  - A. What is a Search?**
    - 1. General Principles**
      - Katz v. U.S. (75-80)*
      - Notes 1-8 (80-83)*
    - 2. The Katz Doctrine in Application**
      - U.S. v. White (83-90)*
      - Notes 1-8 (90-93)*
      - Smith v. Maryland (93-100)*
      - Notes 1-5(100-104)*

**“Open Fields” “Curtilages” and Beyond: When is the Fourth Amendment Implicated?**

*Open fields (105-109)*

*Curtilage (109-110)*

*U.S. v. Ciraolo (110-115)*

*California v. Greenwood (115-116)*

*Kyllo v. U.S. (116-125)*

*Notes 1- 9 (125-128)*

**B. What is a “Seizure?”**

*U.S. v. Karo (128-130)*

*Notes 1-5 (130-131)*

**4. The Substance of the Fourth Amendment**

**A. Probable Cause**

*Introductory Comment (132-133)*

*Spinelli v. U.S. (133-140)*

*Notes 1-6 (140-141)*

*Illinois v. Gates (141-154)*

*Notes 1-12 (154-160)*

**B. Arrest Warrants**

*Payton v. New York (162-169)*

*Notes 1-10 (169-174)*

**C. Search Warrants**

**1. The Constitutional Debate (background)(174-185)**

*Note 4 (186-187)(background)*

**2. Elements of a Valid Search Warrant (187)**

*Lo-Ji Sales, Inc. v. New York (187-190)*

*Notes 1-3 (190-91)*

**3. Execution of a Search Warrant (191)**

*Introductory Note (191-192)*

*Richards v. Wisconsin (192-197)*

*Notes 1-9 (197-202)*